

Message Text

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ACTION EB-07

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FMC-01 INR-07 NSAE-00 CG-00 OFA-01 DLOS-04 L-03 SP-02

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FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 5646

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EO 11652: N/A

TAGS: EWWT, CI

SUBJECT: DISCRIMINATORY SHIPPING DECREE

REF: STATE 260638

1. SUMMARY: AS REQUESTED REFTEL, EMBASSY CONFIRMS REPORT THAT GOC ENFORCING 100 PERCENT FREIGHT RESERVE ON ALL CHILEAN EXPORTS. SITUATION ARISES FROM RECENT ENFORCEMENT OF A PROVISION OF DECREE LAW 466 (JUNE 11, 1974), WHICH RESERVES ALL CARGOES WITH TAX OR CUSTOMS PRIVILEGES TO NATIONAL FLAG VESSELS. SINCE ALL EXPORTS HAVE VALUE ADDED TAX (VAT) REBATE, THEY FALL IN THIS CATEGORY. US FLAG LINES BEGINNING TO LOSE CARGOES. SPANISH TEXT OF DL 466 AND MEMCON BEING POUCHED TO EB/TT/MA. END SUMMARY.

2. RECENTLY CHILEAN CENTRAL BANK, UNDER INSTRUCTIONS FROM MINISTRY OF TRANSPORT, BEGAN STAMPING ALL EXPORT LICENSES: "RESERVED FOR NATIONAL VESSEL OR FOREIGN VESSEL AUTHORIZED BY RESOLUTION OF THE MINISTER OF TRANSPORT." CHANGE WAS MADE UNDER PROVISIONS OF ARTICLE 22, DECREE LAW 466 OF JUNE 11, 1974, WHICH RESERVES 100 PERCENT OF ALL CARGOES ENJOYING CUSTOMS OR TAX PRIVILEGES TO CHILEAN FLAG VESSELS. SINCE ALL GENERAL EXPORTS HAVE A VAT REBATE, THEY ARE CONSIDERED TO HAVE TAX PRIVILEGES.

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3. IT IS OUR UNDERSTANDING THAT CURRENT DEVELOPMENTS WERE NOT INTENDED OBJECT OF DL 466. WHEN LAW WAS WRITTEN, "CARGOES ENJOYING CUSTOMS AND TAX PRIVILEGES" INCLUDED FOR EXAMPLE, FOREIGN AID AND INSIGNIFICANT NUMBER OF OTHER IMPORTS AND EXPORTS. WHEN CHILE INSTITUTED VAT IN JANUARY 1975, THE PROBLEM WAS NOTICED BUT LARGELY IGNORED UNTIL LATE SEPTEMBER 1975 WHEN MINISTRY OF TRANSPORT INSTRUCTED CENTRAL BANK TO BEGIN STAMPING.

4. ON OCTOBER 30, OFFICIALS OF PRUDENTIAL LINES (PL) AND THEIR SANTIAGO AGENT VISITED THE EMBASSY TO PROVIDE FURTHER DETAILS. VISITORS SAID THAT PL HAD ALREADY LOST SEVERAL CARGOES AND CONSIDERS THE PROBLEM TO HAVE SERIOUS IMPLICATIONS FOR PL'S OPERATIONS IN CHILE. THEY SAID THAT PL IS PREPARED TO REQUEST CONSIDERATION OF COUNTERVAILING MEASURES UNDER SECTION 19, MERCHANT MARINE ACT, 1920. THEY ALSO DESCRIBED PLANNED JOINT PROTEST BY LOCAL AGENTS OF FOREIGN FLAG CARRIERS, AND EXPORTERS ASSOCIATION. (MEMCON BEING POUCHED).

5. "EMINENCE GRISE" BEHIND POLICY CHANGE REPORTED TO BE ANA (NATIONAL SHIPOWNERS ASSOCIATION) WHOSE CHIEF IS LUIS GUBLER. GUBLER IS ALSO PRESIDENT OF CHILEAN FLAG, COMPANIA SUD AMERICANA DE VAPORES (CSAV). ACCORDING TO PL, CSAV IS PURSUING ALTERNATIVE OBJECTIVE, EITHER OF INCREASING TEMPO OF ITS CAMPAIGN TO CUT US FLAG OUT OF WAYPORT CARGOES OR OF TRYING TO INCREASE MARKET SHARE ON NORTHBOUND SERVICE TO EUROPE OR POSSIBLY BOTH. THE FORMER WORRIES PL GREATLY, COMING ON HEELS OF UNRESOLVED BRAZIL/CHILE WAYPORT CARGO PROBLEM AND EXPECTATION THAT CHILE WILL RATIFY BILATERAL AGREEMENT WITH ARGENTINA IN DECEMBER.

6. PRUDENTIAL'S READING OF CSAV'S INTENTION IS BASED PARTLY ON A RECENT MEETING BETWEEN GUBLER AND LUIS VIADA OF PL'S US OFFICE. PL WAS TOLD THAT CSAV'S LAWYERS HAD DISCOVERED A POSSIBLE LOOPHOLE IN DL 466, AT ARTICLE 22, PARA 3, WHICH WOULD ALLOW CENTRAL BANK TO STAMP EXPORT LICENSES FOR CHILEAN EXPORTS TO THE US: "CHILEAN OR AMERICAN VESSEL." WHEN, HOWEVER, QUERIED ABOUT WAYPORT CARGO, CSAV REPLIED, "FORGET IT."

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7. PL ON PRINCIPLE IS OPPOSED TO ANY FREIGHT RESERVE. PAST EFFORT BY GOC TO IMPOSE 50 PERCENT RESERVE ON IMPORTS FROM US RESULTED IN SOUTHBOUND POOL. PRESENT EFFORT BY GOC TO IMPOSE 100 PERCENT RESERVE MAY RESULT IN NEGOTIATION OF A NORTHBOUND POOL. PL WOULD REGARD THIS SOLUTION AS SECOND-BEST TO TERMINATION OF FREIGHT RESERVE.

8. IT IS VERY DIFFICULT TO HAVE SHORT RUN SOLUTIONS SINCE

NEARLY EVERY PROPOSAL REQUIRES A DECREE LAW FOR IMPLEMENTATION. ONE PCFPOSAL FOR THE SHORT RUN IS TO ALLOW ANA TO ISSUE WAIVERS ON BEHALF OF ALL THE CHILEAN LINES WHICH WOULD SPEED UP THE PROCESS. THIS WILL NOT, HOWEVER, KEEP PL (OR LYKES) FROM LOSING CARGOES.

9. WE ARE CONCERNED NOT ONLY OVER LOSSES SUFFERED BY U.S. LINES SERVING CHILE, BUT ALSO OVER EXAMPLE OF DISCRIMINATORY PRACTICE WHICH OTHER COUNTRIES MAY EMULATE TO DISADVANTAGE OF OTHER U.S. LINES. CHILEANS THEMSELVES MAY HAVE CAUSE TO REGRET GREATER DELAYS AND MORE LIMITED SHIPPING CHOICES OFFERED TO THEIR OWN EXPORTERS, NOT TO MENTION POSSIBILITY OF INVOCATION OF SECTION 19.

10. WHILE DISCUSSIONS GOING FORWARD BETWEEN FOREIGN AND CHILEAN LINERS, AND PENDING INSTRUCTIONS, WE HAVE NOT MADE FORMAL APPROACH TO GOC. WE ARE, HOWEVER, TAKING UP MATTER INFORMALLY WITH FONOFF ALONG LINES PARA 9, ABOVE.
POPPER

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